



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

AUGUST 10, 2010

PRESENT: Mueller, Tanda, Koepp-Baker, Liegl, Moniz

ABSENT: Escobar

LATE: None

STAFF: Planning Manager (PM) Rowe

Chair Mueller called the meeting to order at 7:04 p.m., inviting all present to join in reciting the pledge of allegiance to the U.S. flag.

DECLARATION OF POSTING OF AGENDA

Development Services Technician Bassett certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Mueller opened, and then closed, the floor to public comment for matters not appearing on the agenda as none were in attendance indicating a wish to address such matters.

MINUTES:

July 27, 2010

The Draft Minutes for the July 27, 2010 meeting will be included in the next Planning Commission Meeting Packet.

CONTINUED PUBLIC HEARING:

1) USE PERMIT, UP-10-03: JACKSON OAKS- PRESCHOOL

Adopt a Resolution denying application.

Rowe presented his staff report and stated that the applicant has not responded to any of staff's requests and has reportedly moved from the area.

Mueller opened and closed the floor to public hearing.

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COMMISSIONERS LIEGL AND TANDA MOTIONED TO APPROVE A RESOLUTION DENYING THE CONDITIONAL USE PERMIT FOR JACKSON OAKS PRESCHOOL

**THE MOTION PASSED (4-0-1-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: MONIZ; ABSENT:
ESCOBAR.**

**OTHER
BUSINESS:**

**2) AMENDMENT
TO RESIDENTIAL
DEVELOPMENT
CONTROL
SYSTEM (RDCS)
IMPLEMENTATIO
N POLICY FOR
THE ON-GOING
PROJECT SET-
ASIDE**

Motion to approve an amendment to the Implementation Policy.

Rowe presented his staff report.

Tanda: It looked like Council was taking exception to what the Planning Commission had recommended, but when I look at the wording for the amendment, it looks like they concur. Can you clarify?

Rowe: The difference is the use of the word “may.” Council received a request from Dick Oliver who only has 37 units to complete his project. He can get 30 from two years of ongoing setasides, but he would need a partial allocation for the 7 units to complete the project.

Liegl: Is this a one-time exception to the rule?

Rowe: There is no rule right now. That is what this policy would establish. But testimony at the Council meeting was that if zero is put into the setaside category, then that developer would have to compete. Since two projects are eligible to receive setasides this year, it wouldn't be fair to give all of them to one and none to the other. The Council may be willing to award zero allocations for ongoing setasides in a future year, but they weren't willing to do that this year.

Mueller: I am more concerned about the back half of the statement. What we're trying to say is that if a project already has 45 or more allocations and they're not actively building, then we shouldn't allow more allocations.

Mueller: Opened the floor to public comment.

Dick Oliver appeared on behalf of Mission Ranch.

Oliver: I am required by contract with the owner of the Mission Ranch property to obtain allocations every year. The suggestion that Commissioner Mueller made would be appropriate, in that we intend for our project to be active. But what is the definition of the date for being active? Would it be October 1—the date of the application for the next competition? Or would it be the date the allocations are awarded? I would like to suggest it be the date the allocations are awarded because I don't believe we'll be building by October.

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Tanda: Not understanding your situation fully, you have 37 units to complete but you don't have allocations for those lots yet?

Oliver: That is correct. I will have to get those units from at least three future competitions. But my other concern is that I am required by the owner to get allocations every year and if that is jeopardized, my contract with the owner might end and I don't what to be in that situation.

Tanda: Then why is City Council requiring anything beyond that first phrase that states, "*The City Council may suspend the automatic 15-unit allotment awarded to an eligible on-going project for one fiscal year...*"? Why is it even necessary to have verbiage regarding reserving less than 15 units?

Mueller: It is helpful to the development community to know so that they can advise their financing people. Historically, once they gotten their initial allocations, they have been assured they can get at least 15 ever year thereafter until the project is fully allocated. What we've gotten ourselves into doing is continually awarding allocations to projects that are no longer in a position to build, for whatever reason. That is a bad use of resources and that's why we should cap it. But if they are actively building they should be awarded the allotments. This is a situation created by the market that we haven't run into before.

Rowe: Another thing it does is make those allocations available to other newer projects that have designed products reflective of the current market, rather than "legacy" projects that may have more difficulties securing financing in the current market.

Mueller closed the floor to public comment.

Baker: I note that no date has been suggested by City Council. Have the legal people weighed in on this?

Rowe: There are dates and definitions of eligibility built into the development schedule. But we could put a date into the statement.

Mueller: I'm not sure Council understood what we were trying to do. From a policy standpoint, I think if we change the statement to read, "if an ongoing project has 45 or more unused building allocations *and is not actively building as of the date of the award of allocation...*, then that might take care of it. The key is to be actively building on the date the allocation is awarded.

Liegl: The problem is that a project might not be building by the date of the allocations, but they might start soon thereafter, so how would we know to consider it?

Oliver: For clarification, a project that is ongoing doesn't submit anything to be considered. They only time to consider it is when the allocations are initially granted.

Koepp-Baker: Since we are establishing policy, should the statement be in a positive

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tense, and say something like “if a project has 45 or more unused building allocations, *and is actively building, then the project will be eligible for an ongoing setaside of up to 15 units,*” rather than stating it in a negative way?

Mueller: And we might want to have the ability to have an exception clause for unusual circumstances, if necessary.

Rowe: If you’d like to make a motion to continue the item, staff could re-format it and rephrase it in a positive light.

COMMISSIONERS KOEPP-BAKER AND LIEGL MOTIONED TO CONTINUE AGENDA ITEM 2 TO AUGUST 24.

**THE MOTION PASSED (5-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT:
ESCOBAR.**

**3) BUILDING
ALLOTMENTS
FOR FISCAL
YEAR 2012/13
OCTOBER 2010
COMPETITION**

Adopt a Resolution with a recommendation to forward to City Council for approval.

Rowe presented his staff report.

Mueller opened and closed the floor to public comment.

Tanda: I have a problem deciding something in favor of one developer without all developers having the chance to present their specific case.

Rowe: All you’re doing now is putting 15 allocations into the on-going project setaside. You’re not awarding it to any specific project.

Tanda: But there could be many projects that want to take advantage of the allocations available?

Mueller: There are really only two projects eligible for the on-going setasides—Mission Ranch and Madrone Plaza.

Tanda: You’re saying that of all the projects in Morgan Hill, there are only two that qualify right now?

Rowe: That’s correct. Some are fully allocated and some haven’t met the basic criteria because it’s too early in their development.

Moniz: Is there any requirement that we must grant a certain percentage of allocations?

Rowe: The only requirement is that 33 percent of the allocations must be awarded to single family projects.

Moniz: How many years have we gone without receiving an application in the affordable setasides category?

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Rowe: We've gone through two competitions without a non-profit submitting.

Moniz: So we could take 15 out of affordable and increase the market rate?

Rowe: You could, but you recommended in June that we increase the affordable setaside from 30 to 35, so I didn't want to change that.

Moniz: But there is nowhere that says we have to.

Mueller: There is a guideline that says we should set aside 20 percent of the units for affordable, but if we don't receive any applications we can redistribute those to other categories, which is what we have done for the last two years.

Moniz: I just wanted to clarify whether it was "should" or "must."

COMMISSIONERS TANDA AND LIEGL MOTIONED TO APPROVE THE RDCS ALLOTMENTS FOR FY 2012/13 AS PROPOSED ON EXHIBIT A AND FORWARD TO CITY COUNCIL FOR APPROVAL.

**THE MOTION PASSED (5-0-0-1) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT:
ESCOBAR.**

4)DISCUSSION REGARDING POTENTIAL CALTRAIN SERVICE REDUCTIONS

Motion to recommend that City Council submit comments in support of continuing Caltrain service to Morgan Hill and Gilroy.

Rowe presented his staff report and added that at a monthly meeting of the VTA board, the VTA staff noted that while some savings could be realized, the riders from Morgan Hill and Gilroy tend to ride further than other riders and so they pay a higher fee. Looking at the delta between what is lost and what is saved is probably not significant. Where they would realize the most cost savings would be to eliminate weekend and mid-day service. So at the staff level it is not anticipated that the service would be eliminated for this fiscal year. The problem that CalTrain has is that the state has essentially cut all state funding for public transit, which was about 40 percent of their funding. It is becoming increasingly questionable whether the service can be sustained, or whether it will be cut entirely. They are relying on the high speed rail as the solution because they would share the corridor. Without that they cannot afford the expense of electrification from Tamien Station to the South Bay.

Koepp-Baker: Do we have statistics on the ridership information?

Rowe: I can give you an annual report with the information on each of the stations.

Liegl: We have to be concerned because traffic is already almost halted between Cochrane and Gilroy during commuter hours. If we suspend the train, how many more people will be on the road?

COMMISSIONERS LIEGL AND MONIZ MOTIONED TO RECOMMEND THAT CITY COUNCIL SUBMIT COMMENTS TO CALTRAIN AT THEIR

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**SEPTEMBER 2ND MEETING IN SUPPORT OF CONTINUING SERVICE
TO MORGAN HILL AND GILROY**

**THE MOTION PASSED (5-0-0-1) WITH THE FOLLOWING VOTE:
UNANIMOUS; AYES: NONE; NOES: NONE; ABSTAIN: NONE; ABSENT:
ESCOBAR.**

**ANNOUNCEMENTS/
COMMISSIONER
IDENTIFIED ISSUES**

After consulting with the Chair and polling the other commissioners, the August 24th Planning Commission meeting has been rescheduled to consider recommendation to the Council that they amend the General Plan and adopt the Updated Housing Element. We received a letter from the State Department saying that if we adopt the Housing Element with the modifications and amendments that we have incorporated in response to their first letter, they are prepared to certify the Updated Housing Element. That is good news and will expedite our ability to secure grants. We will have something to hand out at the August 24th meeting.

Tanda: Since the August 24th meeting is back on calendar, can we cancel the first meeting in September?

Rowe: For budgetary reasons, we will take every opportunity to minimize meetings. We tentatively have about five items scheduled for September 14th, but it may be possible to not have a meeting on the 28th.

Liegl: I have an anniversary in October and will probably be out of town.

**CITY COUNCIL
REPORTS**

None.

ADJOURNMENT

Noting that there was no further business for the Planning Commission at this meeting, Chair Mueller adjourned the meeting at 8:05 p.m.

MINUTES RECORDED AND TRANSCRIBED BY:

ELIZABETH BASSETT, Development Services Technician